

**University of the Witwatersrand**

**The Graduate School of Social Sciences and Humanities**

**Local labour procurement practices and policy:  
A case study of Kusile power station**

**Nqobile Nkotitshi Tshabangu**

**Student Number: 697741**

**Supervisor: Professor Jaclyn Cock**

**A research report submitted to the Faculty of Humanities, University of  
the Witwatersrand, Johannesburg, in partial fulfilment of the  
requirements for the degree of Master of Arts in Industrial Sociology-  
Labour Policies and Globalisation (by course work).**

**Johannesburg, 2013**

## **DECLARATION**

I the undersigned declare that this research report is my own work. It is submitted for the Master of Art degree in Industrial Sociology on Labour Policies and Globalisation at the University of the Witwatersrand, Johannesburg. This report has not been submitted before for any other degree or examination in any University.

---

**NQOBILE NKOTITSHI TSHABANGU**

---

**DATE (2013)**

## **DEDICATION**

I dedicate this to my wife Sitshengisiwe who gave all her undivided support in being the pillar of my strength during the period of my study considering I was unemployed due to my fulltime studying of this programme. I further dedicate it to my son Genius Lesly Tshabangu and my two daughters Noe Nicole Tshabangu and Mandy Victorious Tshabangu.

**I salute you all**

## **ABSTRACT**

There is a general conformity in employment discourses that informal employment is not welcomed in the employment circles regardless of how well marketed it could be. The government of South Africa on its state owned projects in the construction industry introduced policies that promoted local labour procurement of employees a process that has resulted with heavy contestations due to its application. This study examines the impact of local labour procurement policy on locally recruited employees and those who got retrenched purely for the purpose of accommodating the policy requirement. This is done through the use of Kusile power station as a case study. It adopts qualitative research approach using interviews and document analysis. The study also examines this policy in conjunction with the current labour legislation and the effects it has on the existing labour and the proposed amendment labour bills. It also examines the motive behind the introduction of the policy and who has benefited from it. However the findings reveal that there is inconsistency in the application of the policy. The purpose why the policy was introduced is to reduce unemployment poverty in the areas where these projects are being constructed. Further also the study reveals that in as much as the policy promotes informal employment, this type of informal employment is different from the commonly well-known informal employment purely on the aspect of remuneration and benefits compared to the common one.

## **ACKNOWLEDGEMENTS**

I am greatly indebted to the individuals and institutions that assisted in various ways during the process of conducting this research report leading to the successful completion of same.

This research would not have been possible without the undivided, mentorship and invaluable supervision of Professor Jacklyn Cock. I vehemently appreciate her support throughout the research process.

My outmost gratitude is extended to all my lecturers, classmates and the course administrators at the University of Witwatersrand, Department of Sociology for a smooth running of the programme.

I am grateful to the International Labour Organisation, University of the Witwatersrand and Global Labour University for conducting this programme. It has really brought light to my blink academic carrier.

I am also thankful to the management of National Council of Trade Unions (NACTU) and its affiliates for their support and trust they put on me for the funding of my studies. In particular to the following comrades, Thulani Khumalo (NACTU) Training Department Head, Samela Manene (former NACTU General Secretary), Narius Moloto (NACTU General Secretary), Joseph Maqhekeni (NACTU President), Buaz Mashele the National Union of Food, Beverage, Wine, Spirits and Allied Workers (NUFBWSAW) General Secretary and Nombuso Jele my workmate.

Further also, I give thanks to the National Union of Mineworkers (NUM) officials and shop stewards at both Kusile Power Station and Medupi Power Station together with BCAWU officials and shop stewards on these power stations, because without their assistance this research would not have been a success.

I also further extend my gratitude to the management of Kusile Power Station, Kusile Power Station workers in general and the residents of

Hlalanikahle in Witbank, Phola, Wilge and Delmas for their input towards the successful completion of this research report.

Lastly I extend my profound gratitude to my entire family, my wife Sitshengisiwe Tshabangu for her support, both emotional and financially during my period of study and the best Christmas present ever presented to me as she gave birth to my precious little baby girl Mandy Victorious Tshabangu, born on the 21<sup>st</sup> of December 2012 and also to my lovely handsome boy Genius Lesly Tshabangu and his elder sister Noe Nicole Tshabangu. I love you all people, this would not have been possible without your support.

## TABLE OF CONTENTS

<b>DECLARATION.....</b>	<b>I</b>
<b>DEDICATION.....</b>	<b>II</b>
<b>ABSTRACT.....</b>	<b>III</b>
<b>ACKNOWLEDGEMENTS.....</b>	<b>IV</b>
<b>TABLE OF CONTENTS.....</b>	<b>VI</b>
<b>LIST OF TABLES.....</b>	<b>XI</b>
<b>ACRONYMS AND ABBREVIATION.....</b>	<b>XII</b>
<b>CHAPTER I.....</b>	<b>1</b>
<b>1.1 RESEARCH TITLE.....</b>	<b>1</b>
<b>1.2 INTRODUCTION.....</b>	<b>1</b>
<b>1.3 THE LOCAL LABOUR PROCUREMENT POLICY.....</b>	<b>5</b>
<b>1.4 THE RESEARCH SITE: KUSILE POWER STATION.....</b>	<b>8</b>
<b>1.5 ESKOM.....</b>	<b>9</b>
<b>1.6 UNION DENSITY AT THE PROJECT.....</b>	<b>11</b>
<b>1.7 CONTROVERSY REGARDING LOCAL LABOUR PROCUREMENT... </b>	<b>12</b>
<b>1.8 CONTROVERSY REGARDING THE CONSTRUCTION OF KUSILE PROJECT.....</b>	<b>16</b>
<b>1.9 METHODOLOGY.....</b>	<b>18</b>

<b>1.10 ACCESS.....</b>	<b>22</b>
<b>1.11 ETHICAL CONSIDERATION.....</b>	<b>23</b>
<b>1.12 INFORMED CONSENT AND CONFIDENTIALITY.....</b>	<b>23</b>
<b>1.13 STRUCTURE OF THE RESEARCH REPORT.....</b>	<b>24</b>
<b>CHAPTER 2.....</b>	<b>25</b>
<b>THE CONTEXT OF THE LOCAL LABOUR PROCUREMENT POLICY: THE CONSTRUCTION INDUSTRY AND LABOUR RELATIONS IN CONTEMPORARY SOUTH AFRICA.....</b>	<b>25</b>
<b>2.1 BACKGROUND.....</b>	<b>25</b>
<b>2.2 THE UNEMPLOYMENT CRISIS IN SOUTH AFRICA.....</b>	<b>26</b>
<b>2.3 THE CONSTRUCTION INDUSTRY OF SOUTH AFRICA.....</b>	<b>28</b>
<b>2.4 THE CIVIL ENGINEERING INDUSTRY OF SOUTH AFRICA.....</b>	<b>34</b>
<b>2.5 THE SOUTH AFRICAN LABOUR REGIME.....</b>	<b>37</b>
<b>2.6 THE ROLE OF THE SOCIAL PARTNERS AT NEDLEC.....</b>	<b>40</b>
<b>2.7 PROPOSED CHANGES TO THE LABOUR LEGISLATION.....</b>	<b>42</b>
<b>2.8 THE LABOUR RELATIONS ACT.....</b>	<b>43</b>
<b>2.9 PROPOSED AMENDMENT TO THE LABOUR RELATIONS ACT....</b>	<b>44</b>
<b>2.10 TEMPORARY EMPLOYMENT SERVICES.....</b>	<b>45</b>
<b>2.11 ORGANISATIONAL RIGHTS.....</b>	<b>49</b>
<b>2.12 PROPOSED CHANGES ON STRIKE CONDITIONS.....</b>	<b>51</b>



<b>2.13 PROPOSED CHANGES TO THE BASIC CONDITIONS OF EMPLOYMENT ACT.....</b>	<b>52</b>
<b>2.14 PROPOSED CHANGES TO THE PUBLIC EMPLOYMENT SERVICES ACT.....</b>	<b>55</b>
<b>2.15 PROPOSED CHANGES TO THE SECTORAL DETERMINATION.</b>	<b>56</b>
<b>2.16 COLLECTIVE BARGAINING.....</b>	<b>57</b>
<b>CHAPTER III.....</b>	<b>61</b>
<b>EMPLOYMENT POLICIES AND PRACTICES AT KUSILE POWER STATION.....</b>	<b>61</b>
<b>3.1 BACKGROUND.....</b>	<b>61</b>
<b>3.2 PRINCIPLES AND PROCEDURES OF THE PROJECT LABOUR AGREEMENT.....</b>	<b>61</b>
<b>3.3 RECRUITMENT.....</b>	<b>62</b>
<b>3.4 THE SOCIAL CHARACTERISTICS OF KUSILE CURRENT EMPLOYEES.....</b>	<b>71</b>
<b>3.5 WORKER PROFILE (SECONDED EMPLOYEE).....</b>	<b>75</b>
<b>3.6 WORKER PROFILE (LOCAL EMPLOYEE).....</b>	<b>76</b>
<b>3.7 GRIEVANCES AT MEDUPI POWER STATION.....</b>	<b>77</b>
<b>3.8 LABOUR-MANAGEMENT RELATIONS.....</b>	<b>84</b>
<b>3.9 LOCAL LABOUR.....</b>	<b>88</b>
<b>3.10 LIMITED DURATION CONTRACT (LDC) EMPLOYEES.....</b>	<b>89</b>
<b>3.11 SECONDED LABOUR.....</b>	<b>90</b>

<b>3.12 EXPATRIATE EMPLOYEES.....</b>	<b>94</b>
<b>3.13 LABOUR BROKERS AND TEMPORARY EMPLOYMENT SERVICES.....</b>	<b>95</b>
<b>3.14 THE REMUNERATION POLICY AND PROCEDURE.....</b>	<b>96</b>
<b>3.15 THE CIVIL ENGINEERING JOB STRUCTURE AND PROJECT WAGE RATES.....</b>	<b>98</b>
<b>3.16 THE INDUSTRY WAGE RATES FOR SMEIP (STEEL, METAL, ENGINEERING INDUSTRY PROCESSES).....</b>	<b>103</b>
<b>3.17 THE COMMUNICATIONS PROCEDURE AND POLICY.....</b>	<b>106</b>
<b>3.18 COMMUNICATION STRUCTURE.....</b>	<b>107</b>
<b>3.19 DEMOBILISATION PROCEDURES AND POLICY.....</b>	<b>108</b>
<b>3.20 STRIKES.....</b>	<b>110</b>
<b>3.21 PROHIBITION OF STRIKE ACTION.....</b>	<b>113</b>
<b>3.22 GRIEVANCE POLICY.....</b>	<b>113</b>
<b>3.23 DISCIPLINARY PROCEDURES AND POLICY.....</b>	<b>117</b>
<b>3.24 FORMAL DISCIPLINARY ENQUIRY / PRE-ARBITRATION.....</b>	<b>118</b>
<b>3.25 DISCIPLINARY CODE.....</b>	<b>119</b>
<b>3.26 DISCIPLINARY CODE OFFENCE TABLE.....</b>	<b>120</b>
<b>3.27 DISPUTE PROCEDURE ON ARBITRATIONS.....</b>	<b>123</b>
<b>CHAPTER FOUR.....</b>	<b>125</b>
<b>4.1 CONCLUSIONS.....</b>	<b>125</b>

<b>4.2 THE CURRENT CONTEXT.....</b>	<b>125</b>
<b>4.3 THE IMPACT OF THE LOCAL LABOUR PROCUREMENT POLICY.....</b>	<b>126</b>
<b>BIBLIOGRAPHY.....</b>	<b>131</b>
<b>APPENDIX.....</b>	<b>142</b>
<b>DOCUMENTS.....</b>	<b>142</b>
<b>INTERVIEW GUIDE.....</b>	<b>143</b>

## **LIST OF TABLES**

Table 1.1: The list of categories of informants interviewed.....	22
Table 3.1: The civil engineering job structure and wage rates.....	100
Table 3.2: Steel, metal, engineering industry processes wage rates.....	106
Table 3.3: The communications procedure and policy.....	108
Table 3.4: The communication structure.....	109
Table 3.5: The disciplinary code offence table.....	122

## **ACRONYMS AND ABBREVIATION**

AIDS	Acquired Immune Deficiency Syndrome
ANC	African National Congress
AS	Annual Summit
BBC	Black Business Council
BC	Bargaining Council
BCAWU	Building Construction and Allied Workers Union
BCEA	Basic Conditions of Employment Act
BRS	Backhousia Recruitment Services
BU	Bargaining Unit
BUSA	Business Unity South Africa
CCF	Constructors Consultative Forum
CCMA	Commission for Conciliation, Mediation and Arbitration
CDR	Centre for Dispute Resolution
CDRO	Centre for Dispute Resolution Officer
CEASA	Construction Engineering Association of South Africa
COSATU	Congress of South African Trade Unions
CPI	Consumer Price Index
CRDP	Comprehensive Rural Development Programme
CSG	Child Support Grants
DA	Democratic Alliance
DC	Development Chamber
DF	Department of Finance
DHA	Department of Home Affairs

DOL	Department of Labour
DPSA	Disabled People South Africa
DPW	Department of Public Works
DTI	Department of Trade and Industry
ECC	Employment Commission Committee
EEA	Employment Equity Act
FDI	Foreign Direct Investment
FEDUSA	Federation of Unions of South Africa
FSC	Financial Sector Coalition
HIV	Human Immune Virus
HRM	Human Resources Manager
HSC	Highveld Steel Company
IES	Inspection Enforcement Services
ILO	International Labour Organisation
IPAP	Industrial Policy Action Plan
KCWJV	Kusile Civil Works Joint Venture
KET	Kusile Executive Team
LDC	Limited duration contract
LIFO	Last in first out
LLP	Local Labour Procurement Policy
LMC	Labour Market Chamber
LRA	Labour Relations Act
LRAB	Labour Relations Amendment Bill
LRAB	Labour Relations Amendment Bill
MC	Management Committee

MET	Medupi Execution Team
MEWUSA	Metal Electrical Workers Union of South Africa
MNC	Multinational Corporations
MPSJV	Medupi Power Station
NACTU	National Council of Trade Unions
NALEDI	National Labour and Economic Development Institute
NCASA	National Co-operatives Association of South Africa
NEDLAC	National Economic Development and Labour Council
NNF	National Negotiating Forum
NUM	National Union of Mine Workers
NUMSA	National Union of Metal Workers of South
NWC	National Women's Coalition
OAG	Old Age Grants
PESA	Public Employment Services Act
PFMPC	Public Finance and Monetary Policy Chamber
PIRM	Project Industrial Relations Manager
PLA	Project Labour Agreement
RIA	Regulatory Impact Assessment
RO	Recruitment Office
SAEWA	South African Equity Workers Association
SAFCEC	South African Federation Civil Engineering Contractors
SAICE	South African Institute of Civil Engineers
SANCO	South African National Civics Organisation
SANDF	South African National Defence Force
SANRAL	South African National Road Agency Limited

SARS	South African Revenue Services
SAYC	South African Youth Council
SBP	Small Business Project
SOE	State Owned Enterprise
TDRC	Tokiso Dispute Resolution Centre
TES	Temporary Employment Services
TIC	Trade and Industry Chamber
TNC	Transnational Corporations
UASA	United Association of South Africa